

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Raymond Leon Semler,
Petitioner,

v.

Civil No. 11-854 (JNE/LIB)
ORDER

Lucinda Jesson, Commissioner of Dept. of
Human Services, and Dennis Benson, CEO
of Minnesota Sex Offender Program (MSOP),

Respondents.

In an Order dated July 26, 2011, the Court denied Petitioner's petition under 28 U.S.C. § 2254 (2006) and declined to issue a certificate of appealability. Petitioner filed a notice of appeal, a motion to proceed in forma pauperis on appeal, and a motion for a certificate of appealability. For the reasons set forth in the July 26 Order, the Court denies the motion for a certificate of appealability. "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3) (2006). A party demonstrates good faith by seeking appellate review of issues that are not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). As set forth in the Report and Recommendation, the petition is untimely. This conclusion is not arguable on its merits. Consequently, Petitioner has not demonstrated that he seeks "appellate review of any issue not frivolous." *Id.* The Court therefore certifies that Petitioner's appeal is not taken in good faith and denies his motion to proceed in forma pauperis on appeal.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT
IS ORDERED THAT:

1. Petitioner's motion to proceed in forma pauperis on appeal [Docket No. 14] is DENIED.

2. Petitioner's motion for a certificate of appealability [Docket No. 15] is DENIED.

Dated: August 24, 2011

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge